



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Paper No. 15

FAEGRE & BENSON LLP  
PATENT DOCKETING  
2200 WELLS FARGO CENTER  
90 SOUTH 7TH STREET  
MINNEAPOLIS, MN 55402-3901

**COPY MAILED**

MAR 11 2005

**OFFICE OF PETITIONS**

In re Application of :  
Paul Wensley, et al. :  
Application No. 09/625,226 :  
Filed: July 24, 2000 :  
Attorney Docket No. 20133-000300US :

**ON PETITION**

This is a decision on the petition, filed January 11, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b). This is also a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**, since the application was returned to a pending status by a decision mailed December 10, 2004.

**NOTICE REGARDING TO FEE DEFICIENCY SUBMISSION UNDER 37 CFR 1.28**

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Applicant submitted an itemized list of deficient payments as required under 37 CFR 1.28. However, the list does not include the difference between the \$665 petition fee submitted on August 16, 2004, and \$1500 petition fee now required as a fee deficiency to be accepted under 37 CFR 1.28. In order to accept the fee deficiencies in this case, the petition fee deficiency of \$835 must be included. Therefore, since the \$1500 petition fee accompanying the present petition to revive is subject to a refund, \$835 will be applied to the deficiency owed for the petition to revive, along with the other fees identified of the itemized list. The remaining \$665 is being refunded in form of a credit to applicant's credit card.

In view of the above, your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Status as a small entity has been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

The application is being returned to Technology Center Art Unit 2625.

*Sherry D. Brinkley*  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy